

United States
Circuit Court of Appeals

For the Ninth Circuit.

CARRIE GAUNT, as Executrix of the Estate of
RUBY M. GAUNT, Deceased,
Appellant,

vs.

VANCE LUMBER COMPANY, a Corporation,
Appellee.

Supplemental Transcript of Record.

Upon Appeal from the United States District Court for
the Western District of Washington,
Northern Division.

FILED

MAR 7 - 1929

PAUL P. O'BRIEN,
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In the Superior Court of the State of Washington,
for the County of King.

No. 182,091.

Dept. No. —.

R. M. GAUNT,

Plaintiff,

vs.

VANCE LUMBER COMPANY, a Corporation,
Defendant.

DEPOSITION OF THOMAS BORDEAUX,
FOR DEFENDANT.

BE IT REMEMBERED, that on Monday, December 14th, 1925, at the hour of two o'clock P. M. of said day, at the office of W. F. Humphrey, Standard Oil Building, City and County of San Francisco, State of California, the deposition of Thomas Bordeaux, a witness for the defendant in the above-entitled cause, came on to be taken, pursuant to stipulation, before Laura E. Hughes, a notary public in and for the City and County of San Francisco, State of California, duly commissioned and sworn, and authorized to administer oaths, etc.; that on said occasion Charles A. Wallace, attorney appeared on behalf of the plaintiff, and W. H. Abel, attorney, appeared on behalf of the defendant. That the said Thomas Bordeaux was duly sworn to testify the truth, [1*] the

*Page-number appearing at the foot of page of original certified Supplemental Transcript of Record.

whole truth and nothing but the truth, whereupon the following proceedings were had:

Direct Examination.

(By Mr. ABEL.)

Q. State your name. A. Thomas Bordeaux.

Q. Your residence? A. Seattle, Washington.

Q. Are you at this time, temporarily stopping in Los Angeles, California? A. Yes, sir.

Q. What, if any, connection have you with the Mason County Logging Company, a corporation?

A. I am president and acting as manager.

Q. For what length of time have you been president and manager of Mason County Logging Company? A. Oh, since it was organized in 1892.

Q. Are you acquainted with J. A. Vance of Vance Lumber Company? A. Yes, sir.

Q. Are you acquainted with myself?

A. Yes, sir.

Q. How long have you known me?

A. Twenty or twenty-five years.

Q. State whether or not for a number of years last past I have been attorney for Mason County Logging Company.

A. Fifteen to twenty years anyway, fifteen years anyway.

Q. You are shown a paper marked Defendant's Identification 1. State, if you can, what it is. [2]

A. This letter was dated February 7th, 1922.

Q. Tell just what it is without reading the letter.

A. It is a letter wanting to know if I would be interested in buying the Vance Lumber Company property.

Q. State whether or not you received that letter in the due course of the mail. A. Yes, sir.

Q. From whom did you receive it?

A. From W. H. Abel of Montesano, Washington.

Mr. ABEL.—We offer the letter as Defendant's Exhibit 1.

Mr. WALLACE.—May I ask the witness a question about the letter, Mr. Abel?

Mr. ABEL.—Yes, certainly.

Mr. WALLACE.—Q. Is that Mr. Abel's signature there, Mr. Bordeaux?

Mr. ABEL.—I object to that as not proper cross-examination, and I would say now that the person who signed my name will be produced as a witness, that person being Mrs. Lottie Fowler, my stenographer. Is that what you wanted to know?

Mr. WALLACE.—Yes.

The letter referred to was thereupon marked by the notary public Defendant's Exhibit 1 and is as follows:

DEFENDANT'S EXHIBIT No. 1.

"W. H. ABEL,

Attorney at Law,

Montesano, Washington. [3]

February 7th, 1922.

Thomas Bordeaux,

% Mason County Logging Co.,

1215 Alaska Building,

Seattle, Washington.

Dear Mr. Bordeaux:

You will recall that you spoke to me about getting an option upon the holdings of the Vance Lumber Company. Mr. Vance is willing to give such option, but does not appear to have decided on the price. He did talk as though it would be for around two million dollars and I told him that I thought it was entirely out of the question and if he did give an option he had better make it at the price at which he would actually sell. Owing to the Federal income tax law, he would prefer to make the price payable on installments.

If from this you think you would be interested, please let me know and I will take a written option for as long a time as I can get and at as low a price as he will quote and you can then make your investigation.

Yours very truly,

W. H. ABEL

F.

WHA°F."

Mr. ABEL.—Q. The witness is now shown Defendant's Identification 2 and asked to state what it is.

A. This letter is a letter in answer to yours of February 7, 1922. This letter is dated February 16, 1922. [4]

Q. Just tell whose letter it is.

A. This is my letter to Mr. Abel.

Q. State whether or not you sent that letter in due course of mail on or about February 16, 1922?

A. Yes, sir.

Q. Your attention is directed to the handwriting of four lines signed T. B. at the bottom of the letter. In whose writing is that?

A. That is my own writing.

Q. Was it on there at the time you sent the letter? A. Yes, sir.

Q. Your attention is directed to the initials T. B. Are those your initials? A. Yes, sir.

Q. Did you sign them there? A. Yes, sir.

Q. Your attention is directed to the words "Thomas Bordeaux, President." State whether or not that is your signature. A. Yes, sir.

Q. Written at the same time? A. Yes, sir.

Mr. ABEL.—We offer the letter as Defendant's Exhibit 2.

The letter referred to was thereupon marked by the notary public Defendant's Exhibit 2 and is as follows:

DEFENDANT'S EXHIBIT No. 2.

“MASON COUNTY LOGGING COMPANY,
Bordeaux, Washington.

February 16th, 1922. [5]

Mr. W. H. Abel, Attorney,
Montesano, Washington.

Dear Sir:

In answer to yours of the 7th inst. in regard to the Vance Lumber Company will say that we are interested in the letter but the first thing we ought to have is a list of all his property showing the valuation of the Mill, lumber stock on hand, number of acres of standing timber and description of same, and the number of acres of logged off lands. I think that you can perhaps get him to do this because it would be necessary for us to have it before we would go to the expense of examining the property.

Yours truly,
MASON COUNTY LOGGING COMPANY,
By THOMAS BORDEAUX,
President.

TB/B.

2 million seemed to be excessive although its all depend on the amount and acreage of the timber. Answer to Seattle office.—T. B.”

Mr. ABEL.—Q. Your attention is now directed to a letter marked Defendant's Identification 3. State what it is.

A. It is a letter from you to me.

Q. When you say "from you to me" just give the names.

A. It is a letter from Mr. Abel to myself.

Q. State whether or not it was received by you in due course [6] of mail on or about the day it bears date? A. It was.

Q. You say the letter was a letter to you, it purports to be directed to Mason County Logging Co. care Thomas Bordeaux, a letter to your company you mean? A. Yes, sir.

Mr. ABEL.—We offer the letter as Defendant's Exhibit 3.

The letter referred to was thereupon marked by the notary public Defendant's Exhibit 3 and is as follows:

DEFENDANT'S EXHIBIT No. 3.

"W. H. ABEL,
Attorney at Law,
Montesano, Washington.

March 23rd, 1922.

Mason County Logging Co.,
% Thomas Bordeaux,
Alaska Building,
Seattle, Washington.

Dear Sirs:

I have a very general list of the assets of the Vance Lumber Company, with their estimated valuations thereof, and am enclosing copy of the same.

I can arrange, if you desire, a meeting with Mr. Vance to discuss the matter in detail and if you

then consider it advisable, obtain from him an option for a long enough period for you to make your examination.

Yours very truly,
W. H. ABEL.

WHA°F.

Encl." [7]

Q. Your attention is now directed to Defendant's Identification 4. State what it is.

A. It is a letter from W. H. Abel to myself.

Q. Pardon me, are you not misreading, you say it is a letter from W. H. Abel. State whether or not it is not a letter from you to W. H. Abel.

A. Oh, yes, that is right, from W. H. Abel to myself.

Q. Is that not misstated?

A. It is a letter from me to W. H. Abel.

Q. State whether or not it was sent in due course of mail on or about the day it bears date.

A. It was.

Mr. ABEL.—We offer the letter in evidence as Defendant's Exhibit 4.

The letter referred to was thereupon marked by the notary public Defendant's Exhibit 4 and is as follows:

DEFENDANT'S EXHIBIT No. 4.

“MASON COUNTY LOGGING COMPANY,
1215 Alaska Building,
Seattle, Washington.

March 29th, 1922.

Mr. W. H. Abel,
Attorney,
Montesano, Wash.

Dear Sir:

I am in receipt of your favor of the 23rd inst. enclosing list of the assets of the Vance Lumber Co. and thank you for same.

I might say that at the present time we have a [8] much more attractive proposition, and are not as keenly interested in the Vance Lumber proposition. Thanking you for the work you have done in this line, I remain,

Yours very truly,
THOMAS BORDEAUX.”

Mr. ABEL.—Q. You are now shown Defendant's Identification 5. State whether or not you have the original of which that purports to be a carbon. This letter is not important except as it happens to be in the chain of correspondence and the original seems to be missing. Did you receive such a letter on or about that date?

A. Yes, sir.

Q. This only purports to be a copy. Do you know where the original is?

A. I don't just know. The original must have been left in our office.

Mr. ABEL.—We offer the letter in evidence as Defendant's Exhibit 5.

The letter referred to was thereupon marked by the notary public Defendant's Exhibit 5 and is as follows:

DEFENDANT'S EXHIBIT No. 5.

“June 20th, 1923.

Thomas Bordeaux,
1215 Alaska Bldg.,
Seattle, Washington.

My dear Mr. Bordeaux:

If you are in Grays Harbor County within the next week or two, would you please let me know. I would like to [9] get in touch with you. Otherwise I can meet you some time at Bordeaux, if you will let me know when you will be there.

Yours very truly,

WHA°F.”

Mr. WALLACE.—We object to the introduction of Defendant's Exhibit 5 in evidence for the reason it has not been properly identified and appears to be a copy of a letter, the whereabouts of the original not having been fully explained. It is not the best evidence.

Mr. ABEL.—Your attention is now directed to Defendant's Identification 6. State what it is.

A. It is a letter from you to me.

Q. Who wrote that letter?

A. Oh, I wrote it myself, it is a letter from me to W. H. Abel at Montesano.

Q. Is that your signature to the letter?

A. Yes, sir.

Q. When did you send it? A. June 21, 1923.

Mr. ABEL.—We offer the letter in evidence as Defendant's Exhibit 6.

The letter referred to was thereupon marked by the notary public Defendant's Exhibit 6 and is as follows:

DEFENDANT'S EXHIBIT No. 6.

“MASON COUNTY LOGGING COMPANY,
1215 Alaska Building,
Seattle, Washington.

June 21st, 1923. [10]

Mr. W. H. Abel,
Montesano, Wash.

My dear Mr. Abel:

Yours of the 20th inst. at hand. I will be in Bordeaux on Wednesday of next week, and will be glad to see you then.

Yours very truly,
THOMAS BORDEAUX.

TB.”

Mr. ABEL.—Q. Your attention is now directed to Defendant's Exhibit 6 which reads: “My dear Mr. Abel: Yours of the 20th inst. at hand.” Referring back to Defendant's Exhibit 5 which purports to bear date June 20th, 1923, is that the letter that is referred to?

A. Yes, sir, that is the one.

Q. I direct your attention to Defendant's Identification 7 consisting of two sheets. State what it is.

A. This is a letter dated July 17th, 1923, from Mr. Abel to myself.

Q. State whether or not you received it in due course of mail on or about July 17th, 1923?

A. I did.

Mr. ABEL.—We offer the letter in evidence as Defendant's Exhibit 7.

The letter referred to was thereupon marked by the notary public Defendant's Exhibit 7 and is as follows:

DEFENDANT'S EXHIBIT No. 7.

“W. H. ABEL,
Attorney at Law,

Montesano, Washington. [11]

July 17th, 1923.

Thomas Bordeaux,
1215 Alaska Bldg.,
Seattle, Washington,

My dear Mr. Bordeaux:

I had a talk with Harry Dollar, of Vance Lumber Company, and after he had talked matters over with Mr. Vance, said they were holding the property at \$3,250,000. He says that same included the following:

Saw mill with a capacity of 140,000 feet per eight-hour day, blacksmith and machine shops. Planing mill with necessary dry kilns and dry lumber sheds. Two shingle mills with dry kilns. Newly completed installation of 1000 K. W. Gen-

eral Electric Company turbine with necessary motors for supplying power for the above properties. Office and store building with stock of merchandise, hotel with accommodations for 100 people. 65 cottages for the accommodation of employees with families, pool-hall and picture show house.

The logging equipment consists of one 100-ton Baldwin rod engine (new), two Heisler geared locomotives, 17 donkey engines with necessary lines, blocks, etc., 2 steam shovels, 11 flat cars, 1 steel moving car, 3 oil tank cars, 42 connected logging trucks, 6 ballast cars, camp cars for two camp units and about 14 miles of standard guage railroad. Standing timber which will cut four hundred million, about 75 to 80% Fir, balance hemlock, spruce and cedar.

At this price he will give terms. [12]

Yours truly,

W. H. ABEL.

WHAFF.

P. S.—I am informed there is about 500 million feet of timber tributary to the Vance Lumber Co. operation not in hands of operators.—W. H. A.”

Mr. ABEL.—Q. Your attention is now directed to Defendant's Identification 8. State what it is.

A. This is a letter from me to Mr. W. H. Abel of Montesano.

Q. Of what date? A. July 28, 1923.

Q. State whether or not you sent that letter in due course of mail on or about that date?

A. Yes, sir.

Mr. ABEL.—Q. We offer the letter in evidence as Defendant's Exhibit 8.

The letter referred to was thereupon marked by the notary public Defendant's Exhibit 8 and is as follows:

DEFENDANT'S EXHIBIT No. 8.

“MASON COUNTY LOGGING COMPANY,
1215 Alaska Building,
Seattle, Washington.

July 28, 1923.

Mr. W. H. Abel, Attorney,
Montesano, Washington.

My dear Mr. Abel:

Replying to yours of the 17th inst., I delayed answering same, for the reason that I wanted to see the principal owners of the lands along Porter Creek.

I finally met one last Thursday and he told me that [13] they have promised mostly all of his holding to a certain party who is now building a railroad to haul this timber to the Puget Sound country, so you can readily see that it will be hard to get much more timber there. However, I am willing to look into this proposition further.

If Mr. Vance would send me a map of his country showing his holdings, and also, who owns the adjoining lands, it would be some help to me to decide on this matter.

I finally located Mr. Vance' office here in the

Stuart Bldg., but I did not see him yet, but very likely will see him some day next week.

Yours truly,
THOMAS BORDEAUX.

TB:BC.”

Mr. ABEL.—You are now shown Defendant’s Identification 9 which purports to be a copy of a letter to Mason County Logging Co. bearing date July 27, 1923. State whether or not you received the original of which that purports to be a carbon copy.

A. Yes, sir, I have received this letter.

Q. Do you know where the original is at this time?

A. At this time it must be in our office either at Seattle or headquarters at Bordeaux.

Mr. ABEL.—We offer the carbon copy of letter in evidence as Defendant’s Exhibit 9.

The carbon copy of letter referred to was there-upon marked by the notary public Defendant’s Exhibit 9 and [14] is as follows:

DEFENDANT’S EXHIBIT No. 9.

“August 27th, 1923.

Mason County Logging Co.,
Bordeaux, Washington.

Dear Sirs:

The Vance Lumber Company herewith gives you an option, to be exercised within sixty days from this date, to purchase for the price of \$3,250,000.00, its entire lumbering and logging properties, includ-

ing its saw mill, planing mill, shingle mills and all property appurtenant thereto; its office and store buildings, hotel, all of its cottages, pool hall, picture show house, including all of its timber properties, and all its logging railroad and all properties used in the operation thereof and in its logging operations.

All of this property is located at and near Malone, in Grays Harbor County, part of the timber being in Mason County.

Of the said price, \$1,000,000 is to be cash payment, balance on agreed terms.

There are some matters of title and easements which will have to be adjusted, but a list of the lands, including the timber lands and also including the logged off lands are herewith submitted to you.

Yours truly,"

Mr. ABEL.—We will later undertake to supply further [15] information concerning the original.

Q. What is Defendant's Identification 10?

A. This is a letter dated September 11, 1923, from Mason County Logging Company by Thomas Bordeaux, President, to Mr. J. A. Vance at Malone, Washington.

Q. State whether or not you sent that letter in the usual course of mail on or about that date, September 11, 1923. A. We did.

Mr. ABEL.—We offer the letter in evidence as Defendant's Exhibit 10.

The letter referred to was thereupon marked by the Notary Public Defendant's Exhibit 10 and is as follows:

DEFENDANT'S EXHIBIT No. 10.

“MASON COUNTY LOGGING COMPANY,
Bordeaux, Washington.

September 11, 1923.

Mr. J. A. Vance,
Malone, Washington.

Dear Sir:—

We have started to examine your property at Malone and have had four men examining your timber and logging conditions during the past week. They are still at your camp and yesterday my son, Ray and I met them at the camp and received our first report from them. Their investigation shows that the Mud Bay people can reach most all of the Porter creek timber so far as topography is concerned. This fact alone depreciates the value of your plant considerably, as it would be very good proposition for one concern only. But you cut [16] it in two it leaves it that neither party will make much out of it. In fact, we are now satisfied that you are asking away too much for your property, and unless you are willing to come down it is useless for us to spend more money in cruising your timber.

As for the mill you have a good townsite but it will take a lot of money to put the mill in good shape. We can see that you have spent a lot of money on the plant lately but it will take a lot more. It does not seem to us to be well suited for handling the big timber which you will get on Porter creek. Unless you are willing to re-con-

sider your price we will have to give the proposition up.

Yours truly,
 MASON COUNTY LOGGING CO.,
 By THOMAS BORDEAUX,
 President.

TB/T.”

Mr. ABEL.—The witness is now shown Defendant’s Identification 11. State what it is.

A. This is a letter from myself signed as President of Mason County Logging Company to Mr. W. H. Abel, Montesano, Washington, dated September, 18th, 1923.

Q. State whether or not you sent that letter in due course of mail on or about that date?

A. Yes, sir, I did.

Mr. ABEL.—We offer the letter in evidence as Defendant’s Exhibit 11. [17]

The letter referred to was thereupon marked by the notary public Defendant’s Exhibit 11 and is as follows:

DEFENDANT’S EXHIBIT No. 11.

“MASON COUNTY LOGGING COMPANY,
 1215 Alaska Building,
 Seattle, Washington.

Sept. 18th, 1923.

Mr. W. H. Abel,
 Attorney,
 Montesano, Wash.

Dear Mr. Abel:

Re. our phone conversation last evening: I could

not very well get away today, owing to some previous engagement, but with regard to the Vance Lumber Co. option, will say that we have given this up.

We had four timber cruisers there for about ten days, and they reported that it would be a pretty good proposition if all of the timber tributary to Porter Creek could be secured. It would be one of the finest propositions in the Northwest, as the Porter Creek timber is first class with good ground for logging. It is too bad that Mr. Vance did not secure all of this timber a few years ago. But the Mud Bay Logging Co. in which the Weyerhaeuser people have large interests, having started in there, naturally control the Porter Creek country, and they are now building a railroad over the summit at the headwaters of Porter Creek. They will get over half of the timber in that district, so that it is cutting the proposition in two. You can readily see that there will not be much for either party. That is the reason why we have given it up. [18]

Yours very truly,

MASON COUNTY LOGGING CO.

By THOMAS BORDEAUX,

President."

Mr. ABEL.—Q. You are now shown Defendant's Identification 12. State what it is.

A. It is a letter from Mason County Logging Company signed by myself as President of the Company, to W. H. Abel, Montesano, Washington, dated Sept. 21st, 1923.

Q. State whether or not you sent that letter in due course of mail on or about that date?

A. Yes, sir, I did.

Mr. ABEL.—We offer the letter in evidence as Defendant's Exhibit 12.

The letter referred to was thereupon marked by the notary public Defendant's Exhibit 12 and is as follows:

DEFENDANT'S EXHIBIT No. 12.

“MASON COUNTY LOGGING COMPANY,
1215 Alaska Building,
Seattle, Washington.

Sept. 21st, 1923.

Mr. W. H. Abel,
Montesano, Wash.

Dear Sir:—

In answer to yours of the 19th inst., will say that if Mr. Vance wants to sell his property, he will have to come down considerably on the price he is now asking, because, owing to the topography of that country, the Mud Bay Logging Co. will be able to get all of the Weyerhaeuser timber if they want it. I believe there is not much use [19] in your trying to get an option for anyone else, as Mr. Vance is asking too much, and it looks like he does not want to sell, unless he can get more than it is worth.

Yours very truly,
MASON COUNTY LOGGING CO.
By THOMAS BORDEAUX,
President.”

Q. State whether or not Defendant's Identification 13 is a copy of an answer to Defendant's Exhibit 12 just introduced.

A. This letter is addressed to Mason County Logging Co. Seattle, Washington, dated September 22d, 1923.

Q. It only purports to be a copy. Did you receive the original from me of which that purports to be a copy? A. Yes, sir.

Q. Do you know where the original is now?

A. I am not certain where it is, it should be some place in our office.

Mr. ABEL.—In the absence of the original, however, I offer the copy which is marked Identification 13 in evidence, merely to complete the chain of correspondence. We will try to produce the original, but I do not know whether we can or not.

The copy of the letter referred to was thereupon marked by the notary public Defendant's Exhibit 13 and is as follows:

DEFENDANT'S EXHIBIT No. 13.

“September 22nd, 1923. [20]

Mason County Logging Co.

1215 Alaska Bldg.,

Seattle, Washington.

My dear Mr. Bordeaux:

In response to yours of the 21st inst. will say that I will try to see you in the next few days.

Yours very truly,

WHA°F.”

Q. You are now shown Defendant's Identification 14. State what it is.

A. This is a letter from Mason County Logging Company signed by Thomas Bordeaux, President to W. H. Abel, Attorney, Montesano, Washington, dated October 4, 1923.

Q. State whether or not you sent that letter on that date in due course of the mail to me?

A. Yes, sir.

Mr. ABEL.—We offer the letter in evidence as Defendant's Exhibit 14.

The letter referred to was thereupon marked by the notary public as Defendant's Exhibit 14 and is as follows:

DEFENDANT'S EXHIBIT No. 14.

“MASON COUNTY LOGGING COMPANY,
Bordeaux, Washington.

Oct. 4, 1923.

Mr. W. H. Abel, Atty.,
Montesano, Wash.

Dear Sir:

As I told you in Olympia I would see Mr. Long of the Weyerhaeuser people re. the Vance deal. Accordingly I stopped there last Monday but found that Mr. Long had gone east for two or three weeks, so I am unable to do [21] very much at present.

In the meantime I wish you would take it up with Vance again and have him come down on his price which is too high by six or seven hundred thousand dollars. It looks to me as though Mr.

Vance does not realize the position he is in just now. As you know the Mud Bay Logging Company has an option from the Weyerhaeuser people on the timber available in this section, so Mr. Vance cannot expect to get much more timber than he holds at the present time.

Yours very truly,

MASON COUNTY LOGGING COMPANY,

By THOMAS BORDEAUX,

President."

Q. You are now shown Defendant's Identification 15 which purports to be a carbon copy of a letter. State whether or not you received the original in due course of mail on or about the day the copy bears date, from me. A. Yes, sir.

Q. You say you received the original?

A. Yes, sir, I received it.

Q. Do you know where it is at this time?

A. Just now it must be in—no I can't tell, it must be around the office.

Q. But you haven't it here personally at this time? A. No, sir. [22]

Q. Your attention is directed to the contents of Defendant's Identification 15 which mentions: "I am enclosing herewith the manufacturing report of Vance Lumber Company for the month of August, 1923, the sales report for the same month, manufacturing report for the first six months of this year and sales report for the same period." State whether or not you did receive those documents.

A. Yes, sir, I remember them.

Q. Do you know where they are at this time?

A. At this time I don't just know where they are, but I remember receiving them.

Q. You have not got them here? A. No, sir.

Mr. ABEL.—We offer the carbon copy of letter in evidence as Defendant's Exhibit 15.

The carbon copy of letter referred to was thereupon marked by the notary public Defendant's Exhibit 15 and is as follows:

DEFENDANT'S EXHIBIT No. 15.

“October 4th, 1923.

Thos. Bordeaux,

%Mason County Logging Co.,

Alaska, Bldg.,

Seattle, Washington.

My dear Mr. Bordeaux:

I had expected to hand you the enclosed statement at Seattle last Monday but was so busy in court that I did not have time to look you up, so I am enclosing herewith the [23] manufacturing report of Vance Lumber Co. for the month of August, 1923, the sales report for the same month, manufacturing report for the first six months of this year and sales report for the same period.

Please return to me when you are through with it.

Yours very truly,

WHA:F.”

Q. You are now shown Defendant's Identification 16. State what it is.

A. This is a letter from Mason County Logging Company signed by Thomas Bordeaux, president, to

W. H. Abel, Attorney, Montesano, Washington, dated October 6th, 1923.

Q. State whether or not you received that letter in due course of mail on or about that date?

A. Yes, sir, I did.

Q. We offer the letter in evidence as Defendant's Exhibit 16.

The letter referred to was thereupon marked by the notary public Defendant's Exhibit 16 and is as follows:

DEFENDANT'S EXHIBIT No. 16.

"MASON COUNTY LOGGING COMPANY,
1215 Alaska Building,
Seattle, Washington.

Oct. 6th, 1923.

Mr. W. H. Abel,
Attorney,
Montesano, Wash.

Dear Sir:

I thank you very much for the information you have sent me, and I will look into the proposition further. Mr. Geo. Long is not back from the East yet, neither is Mr. [24] Draham.

In the meantime I wish you would take it up with Vance again and have him come down on his price, which is too high by several hundred thousand dollars.

It looks to me as though Mr. Vance does not realize the position he is in just now. As you know the Mud Bay Logging Co. has an option from the Weyerhaeuser people on all their timber in the

Porter Creek watershed, so Mr. Vance cannot expect to get much more timber than he holds at the present time. He seems to think that a good deal of the Weyerhaeuser timber cannot be reached by the Mud Bay Company; however, there is only a very small portion that they cannot reach, and Mr. Vance will no doubt have to trade in some of his present holdings to obtain this. The fact that he will not be able to buy much more timber materially depreciates the value of this mill, railroad, and in fact, his entire plant.

Yours truly,
MASON COUNTY LOGGING CO.
By THOMAS BORDEAUX,
President.”

Q. Your attention is now directed to Defendant's Identification 17. State what it is.

A. This is a letter dated October 18, 1923, from Vance Lumber Company signed by J. A. Vance to Mason County Logging Co., Seattle, Washington.

Q. State whether or not the Mason County Logging Company received [25] that letter in the due course of mail on or about that date.

A. Yes, sir, we have.

Q. It purports to be an extension of the option referred to.

A. Yes, extension of time to purchase the holdings at Malone and vicinity.

Mr. ABEL.—We offer the letter in evidence as Defendant's Exhibit 17.

The letter referred to was thereupon marked by

the notary public Defendant's Exhibit 17 and is as follows:

DEFENDANT'S EXHIBIT No. 17.

“W. H. ABEL,
Attorney at Law,
Montesano, Washington.

October 18th, 1923.

Mason County Logging Co.,
Alaska Bldg.,
Seattle, Washington.

Dear Sir:

Attention Mr. Thomas Bordeaux, President.

In response to your request for an extension of the option to purchase the holdings at Malone, and vicinity, of Vance Lumber Company, I hereby grant you an extension of thirty days from this date to complete the deal. This will give you ample time to complete your cruises and close the deal.

I wish it understood, however, that the shipments made pending these negotiations are for our account.

My suggestion to you is that you cruise the most remote timber first while the weather is fairly good.

Yours very truly,

VANCE LUMBER COMPANY,

By J. A. VANCE.” [26]

Q. You are now shown two papers which purport to be duplicates each marked Defendant's Identification 18 and one thereof having a “1” above the 18, and at the bottom appearing “copy to W. H. Abel.” State what those letters are.

A. It is a letter from Mason County Logging Company signed by Thomas Bordeaux, President, to Vance Lumber Company, Stuart Building, Seattle, Washington, dated October 19th, 1923, copy to W. H. Abel, Montesano.

Q. State whether or not the original thereof, that is, Defendant's Identification 18, was mailed in the due course of mail on or about the day it bears date to Vance Lumber Company? A. Yes, sir.

Q. And state whether or not the other copy, the one marked Defendant's Identification 18-1 was mailed on or about the date it bears date to myself?

A. Yes, sir.

Mr. ABEL.—We offer each thereof in evidence as Defendant's Exhibit 18 and 18-1.

The letters referred to were thereupon marked by the notary public Defendant's Exhibit 18 and Defendant's Exhibit 18-1 respectively and are as follows:

DEFENDANT'S EXHIBIT No. 18.

“MASON COUNTY LOGGING COMPANY,
1214 Alaska Building,
Seattle, Washington.

Oct. 19th, 1923.

Vance Lumber Co.,
Stuart Bldg.

Seattle, Wash. [27]

Dear Sir:

Attention Mr. J. A. Vance.

Replying to your letter of October 18th, 1923, in reference to our negotiations for the purchase by

Mason County Logging Company of all of your holdings at Malone and vicinity, we have to say :

It would not be possible for us to complete a cruise of your timber and close a deal within the time you mention.

We would be willing to take an option on your holdings on these terms :

We to have until January 1st, 1924, to make our cruise and to accept or reject the option; Purchase price to be \$2,750,000.00. If we accept, we to assume indebtedness of yours to the amount of approximately \$350,000.00, paying you in cash an amount to make, with such debts, the sum of One Million Dollars. The total consideration to be \$2,750,000.00, and the balance of \$1,750,000.00 to be secured by mortgage on property conveyed and to be paid in instalments of \$400,000.00 to \$500,000.00 per year with interest at 4% per annum;

Abstracts of title to all real estate to be submitted, upon notice of acceptance of the option, and a reasonable time allowed for examination. All titles to be good, merchantable titles. Deal to be closed upon approval of titles and making of first payment.

An early reply will oblige,

Yours very truly,

MASON COUNTY LOGGING CO.

By THOMAS BORDEAUX, President.

Copy to W. H. Abel, Montesano." [28]

DEFENDANT'S EXHIBIT No. 18-1.

“MASON COUNTY LOGGING COMPANY,
1215 Alaska Building,
Seattle, Washington.

Oct. 19th, 1923.

Vance Lumber Co.
Stuart Bldg.
Seattle, Wash.

Dear Sirs:

Attention Mr. J. A. Vance.

Replying to your letter of October 18th, 1923, in reference to our negotiations for the purchase by Mason County Logging Company of all of your holdings at Malone and vicinity, we have to say:

It would not be possible for us to complete a cruise of your timber and close a deal within the time you mention.

We would be willing to take an option on your holdings on these terms:

We to have until January 1st, 1924, to make our cruise and to accept or reject the option; Purchase price to be \$2,750,000.00. If we accept, we to assume indebtedness of yours to the amount of approximately \$350,000.00, paying you in cash an amount to make, with such debts, the sum of One Million Dollars. The total consideration to be \$2,750,000.00, and the balance of \$1,750,000.00 to be secured by mortgage on property conveyed and to be paid in instalments of \$400,000.00 to \$500,000.00 per year with interest at 4% per annum;

Abstracts of title to all real estate to be submitted, upon notice of acceptance of the option, and a reasonable time allowed for examination. All titles to be good, merchantable [29] titles. Deal to be closed upon approval of titles and making of first payment.

An early reply will oblige,

Yours very truly,

MASON COUNTY LOGGING CO.

By THOMAS BORDEAUX, President.

Copy to W. H. Abel, Montesano."

Mr. WALLACE.—What is the purpose of putting in duplicate?

Mr. ABEL.—Merely to show my connection with the matter, a copy was being sent to me, and one to the Vance Lumber Company.

Mr. WALLACE.—This was signed and sent at the time?

WITNESS.—Yes, sir.

Mr. ABEL.—Q. You are now shown Defendant's Identification 19. State what it is.

A. This letter is dated October 22d, 1923, from myself to W. H. Abel, attorney, Montesano, Washington.

Q. State whether or not you transmitted that letter by mail in due course on or about that date?

A. Yes, sir.

Mr. ABEL.—We offer the same in evidence as Defendant's Exhibit 19.

The letter referred to was thereupon marked by the notary public Defendant's Exhibit 19 and is as follows:

DEFENDANT'S EXHIBIT No. 19.

“MASON COUNTY LOGGING COMPANY,
1215 Alaska Building,
Seattle, Washington. [30]

Oct. 22nd, 1923.

Mr. W. H. Abel,
Sttorney,
Montesano, Wash.

Dear Sir:

Referring to our telephone conversations of Saturday and this morning: With regard to the affidavit you ask for,—a couple of years ago we prepared a questionnaire in which we gave the price of stumpage for the year 1913 and what it was at the time of preparing the questionnaire, but as we keep all of our records at our head office at Bordeaux, I cannot answer your questions at this time. Am going to Bordeaux in a day or so, and you will hear again from me the latter part of the week.

With regard to the Vance deal: I talked to Mr. Vance by phone today, and he told me that he expected to go to Malone in a few days and would give us his answer from there. One thing that is important in regard to the plant, is the buying of the Puget Mill Co. lands, either for the Vance Lbr. Co. or for the Mason Co. Logging Co., if we buy Vance. I have an option on the Puget Mill timber until the first of November, and would like to hear

from you before that time, as I want to take advantage of my option from the Puget Mill.

Yours very truly,
THOMAS BORDEAUX.

TB.”

Q. You are now shown Defendant’s Identification 20. What is it?

A. This letter is dated October 30th, 1923, from Mason County [31] Logging Company, by Thomas Bordeaux, President, to Vance Lumber Company, Malone, Washington.

Q. State whether or not you sent that letter in the usual course of mail on or about that date?

A. Yes, sir, I did.

We offer the letter in evidence as Defendant’s Exhibit 20.

The letter referred to was thereupon marked by the notary public Defendant’s Exhibit 20 and is as follows:

DEFENDANT’S EXHIBIT No. 20.

“MASON COUNTY LOGGING COMPANY,
1215 Alaska Building,
Seattle, Washington.

Oct. 30th, 1923.

Vance Lumber Co.

Malone, Wash.

Dear Sir:

Attention Mr. Dollar.

This is to advise you that we are sending two timber cruisers tomorrow. They will arrive by

automobile, and I wish you would take them up on your logging train and hope you will be able to accommodate them at your camp for a few days.

Yours truly,

MASON COUNTY LOGGING CO.

By THOMAS BORDEAUX, President."

Q. You are now shown Defendant's Identification 21. Please state what it is.

A. It is a letter dated November 23d, 1923, from Mason County [32] Logging Company by Thomas Bordeaux, President, to W. H. Abel, Montesano, Washington.

Q. State whether or not you transmitted that letter by mail in the usual course on or about that date. A. Yes, sir.

Mr. ABEL.—We offer the letter in evidence as Defendant's Exhibit 21.

The letter referred to was thereupon marked by the notary public Defendant's Exhibit 21 and is as follows:

DEFENDANT'S EXHIBIT No. 21.

"MASON COUNTY LOGGING COMPANY,
1215 Alaska Building,
Seattle, Washington.

Nov. 23rd, 1923.

Mr. W. H. Abel,
Montesano, Wash.

Dear Mr. Abel:

This is to advise you that we have two sets of cruisers on Porter Creek examining the Vance Timber, and we find that this will not be completed

by the 1st of December. According to the option, we have until the 1st of December, or as long a time thereafter, as is needed, up to January 1st, 1924.

The way it looks now we believe it will take us until the 15th or 20th of December to complete the cruise.

Will you acknowledge receipt of this letter, and oblige,

Yours very truly,

MASON COUNTY LOGGING CO.

By THOMAS BORDEAUX, President."

[33]

Q. Mr. Bordeaux, what person, if anybody, interested you or Mason County Logging Company in the holdings of Vance Lumber Company?

A. It was yourself, W. H. Abel of Montesano.

Q. Did any other person, agent or attorney have anything to do with putting up the Vance Lumber Company's properties for sale to the Mason County Logging Company? A. Nobody else.

Q. How long had there been conversations or negotiations between yourself on the part of the Mason County Logging Company and me upon that subject, I mean the subject of the sale to Mason County Logging Company of the properties of Vance Lumber Company?

A. Oh, about two years or more, before the deal was closed, talking about it for a couple of years or more.

Q. During the time that Mason County Logging Company was dealing to buy the properties of

Vance Lumber Company, were you acquainted with R. M. Gaunt, the plaintiff in this case?

A. No, sir.

Q. Did you have any correspondence or dealings with her at all? A. No, sir, not at all.

Q. Did you know that R. M. Gaunt had the lumber company's properties for sale during the time that you were dealing? A. No, sir.

Q. Did you have any dealings concerning the Mason County Logging [34] Company purchasing the properties of the Vance Lumber Company with any other person at all except myself and J. A. Vance and H. D. Dollar?

A. Except stockholders.

Q. But as to outsiders?

A. No, no outsiders.

Q. Do you know Section 7 on Gibson Creek in Grays Harbor County, State of Washington?

A. Yes, sir.

Q. From whom, if anybody, did Mason County Logging Company buy that property?

A. From Anderson and Middleton, Aberdeen.

Q. About when was Section 7 bought by Mason County Logging Company from Anderson and Middleton?

A. Oh, during the first part of the year 1923, I don't remember what month it was, but early in the spring of 1923.

Q. What were the holdings of Vance Lumber Company with reference to the operations and property of Mason County Logging Company?

A. They were joined together, dovetailed together more or less.

Q. State whether or not during the entire two years that conversations and negotiations were pending, the Mason County Logging Company was interested in the purchase at a proper price of the properties of the Vance Lumber Company?

A. Yes, sir.

Q. And state whether or not during that entire time you understood [35] that I, W. H. Abel, was attorney for both companies, that is, Mason County Logging Company and Vance Lumber Company?

A. Yes, sir.

Mr. ABEL.—I think you may take the witness, Mr. Wallace.

Cross-examination.

(By Mr. WALLACE.)

Q. Mr. Bordeaux, you said you did not discuss it with anyone except the stockholders of Mason County Logging Company, what stockholders do you have reference to?

A. Stockholders of our company.

Q. Who were they that you have reference to?

A. My brother and Mrs. A. H. Anderson of Seattle.

Q. I believe you stated you were president and one of the trustees or directors of the Mason County Logging Company? A. Yes, sir.

Q. Who were the other trustees of the Mason County Logging Company?

A. My brother was one.

Q. What is your brother's name and initials?

A. Joseph.

Q. And who was the other trustee, if there were any others?

A. Well, M. E. Reed acting as trustee for Mrs. Anderson.

Q. That is Mark E. Reed of Sheldon?

A. Yes, sir.

Q. Did you ever discuss the proposition of buying the Vance [36] holdings with Mr. Reed, Mark E. Reed?

A. Not Mrs. Anderson, had some talk with him, I suppose.

Q. I am not asking you what you had with Mrs. Anderson, I am asking you now if you ever discussed it with Mr. Mark E. Reed?

A. I did, but whenever I talked to him about it he was opposed to it because Mr. Vance wanted too much money.

Q. When did you first talk to Mark E. Reed about the buying of Vance Lumber Company, or he talked to you about it, give us the date?

A. That was about the first of the year, 1924.

Q. The first of the year 1924? A. Yes, sir.

Q. You had never talked to him before that time about it or he to you?

A. Well, he is a pretty busy man.

Q. I understand that, but you can answer my question. Just state whether you did talk to him before the first part of the year 1924?

A. I don't exactly remember now whether I did or not.

Q. Well, you were contemplating buying property of the value of two and a half million to three and a half million dollars; now if you had talked with Mr. Reed would you not remember it?

Mr. ABEL.—I object to that as argumentative.

A. I had a talk with Mrs. Anderson several times about it. [37]

Q. When did you talk with Mrs. Anderson about it?

A. Oh, when we first commenced to talk about it a year or two.

Q. A year or two prior to the time you made the purchase? A. Yes, sir.

Q. But you say you never talked to Mr. Reed prior to the first of the year 1924 about the buying of the Vance timber.

A. Something might have been said before.

Q. How long before?

A. Oh, a few months before, I suppose.

Q. Did you talk to him about it in August, 1923?

Mr. ABEL.—I object to that as being immaterial, because this witness had negotiated for an option before that date with myself representing Vance Lumber Company.

Mr. WALLACE.—Q. Did you talk to Mr. Reed about buying the Vance Lumber Company in August, 1923?

A. Why, I don't exactly remember when I first talked with him about it.

Q. When you did first talk to Mr. Reed, what was said?

A. We talked about it in a general way, I told

him the price that Vance wanted, he said it was too much.

Q. Did you see Mark E. Reed on August 13th or 14th, 1923, in Seattle, Washington?

A. I see him quite often.

Q. Do you remember seeing him at that time?

A. No, sir.

Q. Do you remember the occasion when he delivered to you some [38] data and plats on the Vance holdings in August, about the middle of August, 1923?

Mr. ABEL.—I object to that as assuming alleged facts not shown to exist.

A. I do not remember receiving a plat, but I remember seeing it in the office, my son Ray called my attention to it.

Q. What office have you reference to?

A. Bordeaux office.

Q. Where? A. At Bordeaux, Washington.

Q. Do you remember that such a plat was delivered to you in the office of the Mason County Lumber Company in the Alaska Building in Seattle, Washington, during the month of August, 1923?

A. I don't remember.

Q. Do you say it was not so delivered to you by Mr. Reed? A. No, sir.

Q. Did I understand you to say that Mr. Reed was one of the directors of the Mason County Logging Company? A. Yes, sir.

Q. And represented Mrs. Anderson or the Anderson estate? A. Yes, sir.

Q. Mrs. Anderson was an owner of fifty per cent

of the stock of the Mason County Logging Company, was she not, Mr. Bordeaux? A. Yes, sir.

Q. Did Mr. Mark E. Reed own any stock?

A. No, sir. [39]

Q. How many shares of stock in the Mason County Logging Company did you own at the time?

A. Twenty-five per cent.

Q. You owned twenty-five per cent?

A. Yes, sir.

Q. Who owned the other twenty-five per cent?

A. My brother.

Q. Joseph Bordeaux? A. Yes, sir.

Q. Did you ever have any correspondence with Mr. Mark E. Reed about the purchase of the Vance Lumber and Timber Company holdings?

A. I don't remember any.

Q. If you had written Mr. Reed or he had written you about it, you would remember it, would you not, Mr. Bordeaux? A. Yes, sir.

Q. And you think now that no such correspondence ever took place between yourself and Mr. Reed?

A. It seems to me if I had written him a letter or gotten letters from him I would remember it, I don't remember any.

Q. You don't remember anything about it?

A. No, sir.

Q. Did you remember about the other letters that have been introduced in evidence here to-day?

A. Yes, sir.

Q. Do you know a man by the name of Watson?

A. Watson of Tacoma?

Q. Yes. A. I have met him. [40]

Q. Do you know what his initials are?

A. No, I can't tell you now.

Q. How long have you been acquainted with Mr. Watson?

A. Oh, I am not much acquainted with him, been in the office different times for the last four or five years, I suppose he has been in about half a dozen times.

Q. I think there is no question, Mr. Bordeaux, but what you and I are thinking of the same Mr. Watson, I don't seem to have his initials.

A. I don't remember his initials.

Q. He lives in Tacoma and is connected with the Standard Mines Company? A. I don't know.

Q. And is engaged in selling real estate occasionally? A. Timber broker.

Q. Do you recall Mr. Watson coming to your office about February 20th, 1924? Do you remember that time? A. In 1924?

Q. Yes.

A. Why, I don't remember now, but he has dropped in different times.

Q. Do you remember Mr. Watson asking you for the maps and plats that he had turned over to you belonging to Miss R. M. Gaunt?

A. I don't remember that, no.

Q. Do you remember saying to him about that time that those [41] plats were down at the camp and that you would bring them up when you went down and let him have them?

A. I don't remember.

Q. You say you did not make any such statement? A. What is that?

Q. Do you now say that you never had any such conversation with Mr. Watson?

A. Oh, Mr. Watson came in to tell me some of his troubles.

Q. I am not asking you about that; I am simply asking you this very plain question; did he come in and ask you for the maps which belonged to Miss Gaunt, R. M. Gaunt?

A. I don't remember him coming in there and asking for maps, he was in there talking about a deal, talking about this woman in Tacoma having an option on that piece of property, I told him I didn't know anything about it.

Q. Did you tell him you had the maps down at the camp and you would bring them up?

A. I don't remember.

Q. Did you have those plats down at the camp?

A. I remember seeing them there.

Q. So you did have them there?

Mr. ABEL.—You speak of "them"; is there more than one?

Mr. WALLACE.—There is a plat and description and letter. I am speaking of a plat of the timber and the description of it. I am asking Mr. Bordeaux if he had [42] those down at the camp.

Mr. ABEL.—Then when you speak of those you mean a plat and a description of the property?

Mr. WALLACE.—Yes, I mean the plat and a description of the property that was turned over to

Mr. Bordeaux by Mark E. Reed after he had secured them from Miss Gaunt.

A. Why, I told him before that I didn't remember, I don't know. I know my son showed it to me at Bordeaux, whether it was mailed to me or brought up there I don't remember now.

Q. Do you remember about the 5th day of March, 1924, Mr. Watson calling at your office in Seattle and asking you if you brought up the maps and you promised to bring them, do you remember that?

A. No, sir.

Mr. ABEL.—None of this is material, except so far as it goes to the point of whether he ever had them, and I object to it as incompetent, irrelevant and immaterial, and not cross-examination.

Mr. WALLACE.—Do you remember saying to Mr. Watson at that time that you had forgotten to bring them up, that you were going down shortly afterwards and would bring them?

A. I don't remember that.

Q. Then do you remember saying to Mr. Watson at that time that you had forgotten to bring them up and you would go down in a couple of weeks to the camp again and that you [43] would bring them up?

A. I don't remember anything about Watson talking maps to me.

Q. Do you say that he did not talk about the maps to you?

A. I don't say he did not, I say I don't remember anything about it.

Q. Do you say you don't know how that map got down to your office? A. No, sir.

Q. That is, the office at Bordeaux?

A. No, sir.

Q. Do you know where it is now? A. No, sir.

Q. Did you take it down there?

A. I told you before I didn't remember about the maps.

Q. Did you ever have it?

A. I remember seeing it in the office at Bordeaux, that is all.

Q. Do you remember when that was?

A. No, sir.

Q. Do you remember having a conversation with Mr. Watson in the office of the Mason County Lumber Company in Seattle about the 20th day of August, 1923, with reference to your deal with Mr. Watson on some timber lands just north of Astoria?

Mr. ABEL.—Objected to as immaterial.

Mr. WALLACE.—It is just for the purpose of fixing the time.

A. I don't remember the dates, no. I remember he spoke to me about some timber in Oregon, I think it was. [44]

Q. Do you remember saying to him at that time that you had just found out that Vance wanted to sell his timber and that you were not interested further in his tract down near Astoria?

Mr. ABEL.—Object to that as incompetent, irrelevant and immaterial.

A. I don't remember anything like that.

Mr. WALLACE.—Q. You say you did not have any such conversation, or you simply do not remember it?

A. I remember the conversation in a general way. He wanted to get me interested in Oregon, some Oregon timber, but what was said about it I don't remember.

Q. Do you remember saying to him at that time that you never knew before that Vance wanted to sell his timber?

Mr. ABEL.—Objected to as incompetent, irrelevant and immaterial.

Mr. WALLACE.—Q. Would you say you did not say it?

A. I don't remember that.

Q. You have no recollection about that?

A. No, sir.

Q. And that you said at that time that if you had known that Vance wanted to sell his timber you would not have been interested in Mr. Watson's proposition? A. I don't remember.

Q. Did you not say to Mr. Watson at that time that the Vance tract was just the tract of timber that you wanted, that [45] it was close, that you knew all about that kind of timber there, that you were not interested in any other?

A. I don't remember talking to Watson about the Vance property at all.

Q. Did you and the other directors of the Mason County Logging Company ever have a meeting with reference to the buying of the Vance Lumber Company's holdings? A. No, sir.

Q. Did Mark E. Reed ever consent to the buying of the Vance Lumber Company's holdings as a trustee of the Mason County Logging Company?

A. Well, he was opposed to buying it, he thought the price was too high.

Q. Was that the only objection he had to buying it, otherwise he consented?

A. Well, he said something about making Mrs. Anderson agree to it, it would be all right with him.

Q. Was it necessary for them to agree to it before you could buy it?

Mr. ABEL.—That is a conclusion of law as to whether the consent of the stockholders was necessary, and I object to it on that ground.

WITNESS.—What was the question?

(Question read: "Was it necessary for them to agree to it before you could buy it?")

Mr. WALLACE.—Q. When I say "them" I mean Mrs. Anderson [46] and Mark E. Reed, before you could buy it?

Mr. ABEL.—That is a conclusion of law, and I object to it, it is not calling for anything but an opinion on a legal question.

A. It was agreed amongst ourselves to buy it, yes.

Q. Was it necessary to have their consent before you could buy it?

A. Had to have it, they owned half the stock.

Q. You would not have bought it without the consent of Mrs. Anderson, would you?

A. No, sir.

Q. Who was represented by Mr. Mark E. Reed?

A. Some time he was, some time he was not.

Q. In so far as her interest in the Mason County Logging Company was concerned, Mark E. Reed represented her on the board of directors, didn't he? A. Yes, sir.

Q. And it was necessary to get Mark E. Reed's consent as such trustee to buy such property, was it not?

Mr. ABEL.—I object to this as not cross-examination of anything developed on direct examination.

Mr. WALLACE.—Q. Is that true, Mr. Bordeaux?

A. No, sir.

Q. Now, Mr. Bordeaux, calling your attention to Defendant's Exhibit 1, do you have any distinct recollection of ever having received that letter at the time it was written, [47] or shortly after?

A. I remember—I might have had lots of correspondence, but this particular one I must have received it.

Q. What is there about it that makes you think you received it?

A. The same thing about all those letters.

Q. I am not asking you that, I am asking you what it is about Defendant's Exhibit 1 that makes you think you received it?

A. Because it is one of the first correspondence that we had.

Q. Now, when you got that letter did you take it up with Mr. Mark E. Reed, discuss it with him?

A. No, sir.

Q. When you wrote Defendant's Exhibit 2 in answer to Exhibit 1, had you talked with Mr. Reed about buying the Vance timber? A. No, sir.

Mr. ABEL.—Object to this as not cross-examination, and to shorten up you might ask him just when he did first talk to Reed about it and see whether it was your client that arranged it or not.

Mr. WALLACE.—Q. Now, Mr. Bordeaux, prior to receiving Mr. Abel's letter, Defendant's Exhibit 7, dated July 17th, 1923, had you talked to Mr. Reed about the purchase of the Vance timber, Mr. Mark E. Reed?

A. Why, I remember during the fall of 1923 of talking with him about it in a general way. [48]

Q. Consulting with him about the purchase?

A. Well, I just said that we talked in a general way about it.

Q. What did you say about it to Mr. Reed or he to you?

A. I cannot recall just what we said, we talked about the matter, that ought to cover the ground.

Q. When you say you talked about the matter, you mean you talked about the purchase of the Vance Lumber Company holdings? A. Yes, sir.

Q. And that is the first time that you ever talked with him, was in the fall of 1923 about it?

A. Yes, sir.

Q. Did you have frequent conversations with him about it? A. No, sir.

Q. How many times did you talk with Mr. Reed about it in the fall of 1923?

A. I don't remember exactly how many times,

perhaps three or four times in the fall until the deal was closed.

Q. And you had talked to him about it prior to the time mentioned in Defendant's Exhibit 9; you had talked to Mr. Reed prior to taking the option on August 27th, 1923, Defendant's Exhibit 9, had you not? A. Prior to August, 1923, you say?

Q. Yes, August 27th.

A. It seems to me it was later than that we first talked about it.

Q. You agreed on the terms of this before you took this option, did you not? A. No, sir. [49]

Q. You had not? A. No, sir.

Q. Your recollection is that you never talked to Mr. Reed about it or wrote to him about it or he to you in the month of August, 1923, I mean about the buying of the Vance Lumber Company's holdings?

A. I remember never was any letter written, no correspondence about it.

Q. You are positive of that?

A. As far as I can remember. No, I do not remember having written any letters.

Mr. ABEL.—That covers not merely letters, but talk with Reed?

A. Just talk.

Mr. WALLACE.—Just talk, no letters?

A. No letters.

Mr. WALLACE.—That is all.

Redirect Examination.

(By Mr. ABEL.)

Q. Your brother Joseph is dead, is he not?

A. Yes, sir.

Q. When did he die? A. Last September.

Q. Then during the period in controversy here, the Board of Directors of Mason County Logging Company was yourself, your brother Joseph Bordeaux and Mark E. Reed? A. Yes, sir.

Q. Mark E. Reed had no stock in the company, but was the [50] representative of Mrs. Anderson, who owned half the stock of the company?

A. Yes, sir.

Q. State whether or not you were the active manager operating the company? A. I am.

Q. And you had been all the years of the organization, had you?

A. Yes, sir, for thirty-five years, I guess.

Q. When you obtained the option on the Vance Lumber Company's properties on or about August 27th, 1923, had you had any previous talk or dealings with Mr. Reed at all about your getting that option? A. What date was that?

Q. The date of the option August 27, 1923.

A. Round or about that time I think it was the first time that we had it up or talked about it.

Mr. ABEL.—I think that is all.

Recross-examination.

(By Mr. WALLACE.)

Q. And it was as a result of that talk that the option was taken, was it not, Mr. Bordeaux?

A. Very likely it was, I don't know now.

Q. You would not have purchased for the Mason County Logging Company, you and your brother as

trustees, these Vance holdings, over the objection of Mark E. Reed, would you, and against his wish?

A. No, sir.

Mr. ABEL.—Can we waive Mr. Bordeaux' signature? [51]

Mr. WALLACE.—Yes, I think so; it will be all right.

_____ [52]

State of California,

City and County of San Francisco,—ss.

I, Laura E. Hughes, a notary public in and for the City and County of San Francisco, State of California, residing therein, duly commissioned and sworn and authorized to administer oaths, etc., do hereby certify that on the 14th day of December, 1925, at the hour of two o'clock P. M. there personally appeared before me, as such notary public, Thomas Bordeaux, a witness produced for and on behalf of defendant in the foregoing entitled action, in the City of San Francisco, State of California, at the office of W. F. Humphrey; that said Thomas Bordeaux was first duly sworn to testify before being examined by counsel for defendant and counsel for plaintiff upon oral interrogatories; that such deposition was taken in shorthand by me, the said Laura E. Hughes, a stenographer, and by me reduced to typewriting; that the foregoing transcript is a true and correct transcript of the testimony of said witness.

I further certify that Defendant's Exhibits 1 to 21, each inclusive, are the only exhibits offered in evidence in connection with the testimony of such

witness, which exhibits are made a part of his testimony and the foregoing deposition.

WITNESS my hand and seal this 14th day of December, 1925.

[Seal] LAURA E. HUGHES,
Notary Public in and for the City and County of
San Francisco, State of California. [53]

[Endorsed]: No. 5636. United States Circuit Court of Appeals for the Ninth Circuit. Carrie Gaunt, as Executrix of the Estate of Ruby M. Gaunt, Deceased, Appellant, vs. Vance Lumber Company, a Corporation, Appellee. Supplemental Transcript of Record. Upon Appeal from the United States District Court for the Western District of Washington, Northern Division.

Filed November 23, 1928.

PAUL P. O'BRIEN,
Clerk of the United States Circuit Court of Appeals for the Ninth Circuit.

